

REMARKS

Title

In the Office Action, the title was objected to on the basis of not being descriptive. The Examiner suggested a different title but stated correction was not required. Applicant respectfully submits that the title is sufficiently descriptive and therefore declines to amend the title.

Rejection under 35 U.S.C. § 102(b)

Claims 1-20 are currently pending. Claim 10 has been amended to more particularly point out the subject matter of the invention as claimed. Claims 1, 5-6, 9-10, 16-17, and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Schneier. Applicant respectfully requests reconsideration of the rejection in view of the following remarks.

The following remarks only address the patentability of the independent claims (1, 10, and 20) over the cited art. As the Examiner appreciates, should the independent claims be patentable over the cited art, the claims depending therefrom must also be patentable.

Anticipation of a claim requires a showing that each and every limitation of the claim is found in a single prior art reference. MPEP § 2131, citing *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 827 (1987). Furthermore, to anticipate a claim, "a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter." *PPG Indus. v. Guardian Indus. Corp.*, 75 F.3d 1558, 1566 (Fed. Cir. 1996), *aff'd, reh'g denied, reh'g en banc denied*, 156 F.3d 1351 (Fed. Cir. 1998). Court decisions applying this standard are legion.

Applicant's claim 1 recites "using the encryption key to encrypt and decrypt data for subsequent wireless transmissions between the first and second devices." Claim 10 recites the limitation of "the encryption key being used to encrypt data being wirelessly transmitted between the first and second devices." Claim 20 recites "means for using the encryption key to encrypt and decrypt data for subsequent wireless transmissions between the first and second devices." As discussed in Applicant's specification, while wireless networks are being increasingly used, there are problems and disadvantages with wireless networks which Applicant's invention overcomes. (See Specification, pp.1-4.)

Schneier, on the other hand, does not address the problems with wireless transmissions. Rather, Schneier describes sending over the telephone, by mail, by overnight delivery, by carrier pigeon, or by face-to-face meeting as possible solutions. See Schneier, p.177. Thus, Schneier fails to disclose each and every element of Applicant's claims and fails to enable one skilled in the art to make the subject matter of Applicant's claims. Accordingly, the rejection under 35 U.S.C. § 102(b) should be withdrawn.

Rejection under 35 U.S.C. § 103

Claims 2-3 and 11-15 were rejected under 35 U.S.C. § 103(a) as being obvious over Schneier in combination with Stein (U.S. Patent No. 6,297,892). Applicant respectfully requests reconsideration.

Schneier and Stein fail to disclose or suggest all of the limitations of claims 2-3 and 11-15. In the rejection of claims 2-3 and 11-15, the Office Action indicated that Schneier discloses all the limitations of claim 1. As explained above, however, Schneier fails to describe "using the encryption key to encrypt and decrypt data for subsequent wireless transmissions between the first and second devices," as recited in claim 1.

Stein also fails to describe "using the encryption key to encrypt and decrypt data for subsequent wireless transmissions between the first and second devices." Instead, Stein describes transmissions between two fax machines, through a phone line 36 or a fax line 38 ("The new binary code in its encrypted form is then changed into a DTMF signal and transmitted through the phone line 36 or through the fax line 38 to the addressee." Stein, col. 3, ll. 45-47.) Thus, the combined references fail to teach or suggest all the claim limitations. Accordingly, the rejection of claims 2-3 and 11-15 under 35 U.S.C. § 103(a) should be withdrawn.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being obvious over Schneier in combination with Rallis (U.S. Patent No. 6,425,084). Applicant respectfully requests reconsideration.

In the rejection of claim 4, the Office Action indicated that the method of claim 1 is met by Schneier. As explained above, however, Schneier fails to describe "using the encryption key to encrypt and decrypt data for subsequent wireless transmissions between the first and second devices," as recited in claim 1.

In addition, a suggestion or motivation to combine Schneier and Rallis is lacking. Rallis is directed to the problem of laptop computer theft and provides a method of theft-deterrence by preventing unauthorized use of a single computer. Schneier is directed to the problem of two parties who wish to communicate securely. Rallis does not deal with secure communications between two devices. There is simply no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. Therefore, the rejection of claim 4 under 35 U.S.C. § 103(a) should be withdrawn.

Claims 8, 18, and 19 were rejected under 35 U.S.C. § 103(a) as being obvious over Schneier in combination with Campbell (U.S. Patent No. 6,792,112). Applicant respectfully requests reconsideration.

In the rejection of claims 8, 9, and 19, the Office Action indicated that the method of claims 1 and 10 are met by Schneier. As explained above, however, Schneier fails to describe "using the encryption key to encrypt and decrypt data for subsequent wireless transmissions between the first and second devices," as recited in claim 1 and fails to describe "the encryption key being used to encrypt data being wirelessly transmitted between the first and second devices," as recited in claim 10.

In addition, a suggestion or motivation to combine Schneier and Campbell is lacking. The motivation provided in the Office Action ("because sending data as an RF signal is an efficient way to pass data in a transmission/reception system which operates on RF frequencies") does not explain why Schneier, which does not reference RF frequencies at all, is apt to be combined with Campbell. Therefore, the rejection of claims 8, 9, and 19 under 35 U.S.C. § 103(a) should be withdrawn.

Claim 7 was rejected under 35 U.S.C. § 103(a) as being obvious over Schneier in combination with Doberstein (U.S. Patent No. 5,809,148). Applicant respectfully requests reconsideration.

In the rejection of claim 7, the Office Action indicated that the method of claim 6 is met by Schneier. As explained above, however, Schneier fails to describe "using the encryption key to encrypt and decrypt data for subsequent wireless transmissions between the first and second devices," as recited in claim 1, from which claims 6 and 7 depend. Doberstein also fails to describe "using the encryption key to encrypt and decrypt data for subsequent wireless transmissions between the first and second devices." Since Schneier and Doberstein both fail to specifically discuss wireless transmissions, the rejection of claim 4 under 35 U.S.C. § 103(a) should be withdrawn.

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In view of the foregoing, Applicant respectfully submits that the claims are allowable over the cited art, and requests that a Notice of Allowance issue for these

claims. If the Examiner has any questions or issues that can be resolved via telephone, the Examiner is invited to contact the undersigned attorney at 512-473-2550, ext. 102.

Respectfully submitted,



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